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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,317	10/18/2001	Amab Das	129250-002120/US	6605

32498 7590 02/12/2007
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
ATTN: JOHN CURTIN
P.O. BOX 1995
VIENNA, VA 22183

EXAMINER

MERED, HABTE

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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02/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/982,317

Applicant(s)

DAS ET AL.

Examiner

Habte Mered

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2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED on 1/16/2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6, 8, 11-14 and 17-19.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet (PTO-303).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation Sheet (PTO-303)

1. On cursory consideration the request for reconsideration, which has not been entered, does not overcome the art rejections presented in the Final Office Action.

Response to Arguments

2. Applicant's arguments filed on 1/16/2007 have been fully considered but they are not persuasive.
3. Applicant argues, in the Remarks, in the last paragraph on page 6, with respect to independent claims 1 and 14, that Odenwalder teaches a "primary" and "secondary" control channels that are consolidated into one control channel. Examiner disagrees with Applicant's conclusion. First, the Applicant has not provided any proof in the form of citation to indicate that the control channels are consolidated. Second, the fact that the Odenwalder references mentions two control channels as an example does not indicate control channel consolidation as it clear teaches "one or more forward packet data control channels associated with the forward packet data channel". Therefore, it is the position of the Examiner that Odenwalder still unequivocally teaches a separate control channel for each transmission in Column 5:60-63 as claimed in claims 1 and 14. The Applicant's suggestion of a consolidated control channel is not supported and instead Odenwalder in Column 4:62-67 and in Column 6:4-9 discloses the existence of subchannels in both the data and control transmission using CDMA/Walsh codes. Further the combination of Odenwalder with Koorapaty and Jalali is acceptable and compatible because both Koorapaty (Column 6:66-67-7:1-5) and Jalali (Column 14:12-19) teach or suggest using a separate control channel for each transmission.

4. Applicant argues in the Remarks, on page 7, in lines 1-3, Odenwalder fails to teach the length of a given control channel is dependent on the number of subslots in the transmission channel. Further, the Applicant suggests the so called "consolidated" channel appears to depend on the number of timeslots, not subslots, in the control channel and not in a separate data channel.

Examiner respectfully disagrees with Applicant's conclusions and suggestions. First, as claimed in claims 1 and 14, Odenwalder specifically teaches in Column 6:1-17 that the duration of a specific control channel is dependent on the number of timeslots in the transmission channel. Examiner also would like to remind the Applicant that a subslot is still a timeslot as it is a portion of a timeslot and the concept of a subslot as a portion of a timeslot is already taught by Koorapaty and Jalali. Assuming that the Applicant is referring to Odenwalder's column 6:22-26 that discloses the information to decode the number of timeslots occupied by the control information on the secondary control channel is carried by the primary control channel in no way contradicts the additional teaching of Odenwalder in Column 6:1-17 that unequivocally teaches the duration of a specific control channel is dependent on the number of timeslots/subslots in the transmission channel.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Habte Mered whose telephone number is 571 272 6046. The examiner can normally be reached on Monday to Friday 9:30AM to 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on 571 272 3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HM

2-8-2007


CHI PHAM
SUPERVISORY PATENT EXAMINER

2/9/07